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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12
13 v.
14 ALPHAEUS JOHNSON,
15 Defendant.

Case No. 2:16-cr-00272-APG-VCF
**ORDER TO VACATE
PRELIMINARY HEARING**

16 The parties jointly request that this Court vacate the preliminary hearing on the petition
17 to revoke supervised release because:

18 1. On May 5, 2022, Mr. Johnson had his initial appearance and detention hearing
19 in the District of Nevada for new charges in *United States v. Johnson*, 2:22-cr-0096-GMN-
20 DJA, ECF No. 3. At that hearing, the court ordered him detained.

21 2. On May 31, 2022, Mr. Johnson had his initial appearance and detention
22 hearing for the Petition for Revocation of Supervised Release filed in this case. *See* ECF No.
23 68. At that hearing, the court ordered Mr. Johnson detained and scheduled a preliminary
24 hearing. *Id.*

25 3. The Ninth Circuit has held that a defendant who is already in custody on new
26 charges at the time of the revocation proceeding is not entitled to a preliminary probable cause

1 hearing. *United States v. Diaz-Burgos*, 601 F.2d 983, 985 (9th Cir. 1979); *United States v.*
2 *Vasquez-Perez*, 742 F.3d 896, 899 (9th Cir. 2014).

3 4. In light of this authority, the parties stipulate to vacate the preliminary hearing
4 on the petition to revoke Mr. Johnson's supervised release.

5 DATED this 3rd day of June 2022.

6
7 RENE L. VALLADARES
Federal Public Defender

JASON M. FRIERSON
United States Attorney

8
9 By s/ Katherine A. Tanaka

By s/ Melanee Smith

10 KATHERINE A. TANAKA
11 Assistant Federal Public Defender

MELANEE SMITH
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALPHAЕUS JOHNSON,

Defendant.

Case No. 2:16-cr-00272-APG-VCF

ORDER

Based on the stipulation of counsel, the Court finds that good cause exists to vacate the preliminary hearing.

IT IS THEREFORE ORDERED that the preliminary hearing set for June 6, 2022, at 2:00 p.m. is VACATED.

DATED this 3rd day of June 2022.



UNITED STATES MAGISTRATE JUDGE
DANIEL J. ALBREGTS